

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
In re PATENT APPLICATION of : Confirmation No. 2897
Philip BRADSHAW

Group Art Unit: Unassigned

Application Serial No. 10/567,110

Examiner: Unassigned

Filed: February 3, 2006

Title: METHOD AND SYSTEM FOR SYNCHRONISING STATIONS WITHIN
COMMUNICATIONS NETWORKS AND STATIONS FOR USE THEREIN

* * * * *

PETITION UNDER 37 C.F.R. 1.181(a) TO
RECONSIDER DENIAL OF PETITION TO WITHDRAW HOLDING OF
ABANDONMENT

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 1.181(a), Applicant hereby petitions for the reconsideration of the USPTO's May 16, 2008 Decision on Petition ("Decision"), which denied Applicant's March 11, 2008 petition for the withdrawal of the February 27, 2008 holding of abandonment in the above-captioned application ("Original Petition") (copy enclosed). The present petition is being timely filed within two months of the May 16, 2008 mail date of the Decision. *See* Decision, p. 2.

Applicant's Original Petition established all of the relevant facts, and is incorporated herein by reference in its entirety. Applicant requests reconsideration of the USPTO's Decision, and grant of Applicant's present petition and Original Petition because the rationale for the Decision's denial of the Original Petition is not based on or consistent with the U.S.P.T.O.'s established rules.

First, the Decision inaccurately asserts that the postcard is not an authorization because "[t]he postcard receipt is not part of the application." Decision, p. 1. However, there

is no requirement that the authorization must be part of the application. The authorization need only be filed, and the postcard receipt was filed along with the application. *See* MPEP 509.01. The USPTO had possession of the postcard receipt and eventually returned it to the Applicant, thereby demonstrating that it had been filed.

Second, the fact that the postcard receipt "is not retained in the file" (Decision, p. 1) does not vitiate the fact that it was nonetheless filed. The USPTO's decision regarding whether to retain a copy of the postcard and/or how to treat a postcard have no bearing on whether or not the postcard and its payment authorization were properly filed with the present application. The U.S.P.T.O. cannot fault the Applicant for the U.S.P.T.O.'s choices about which filed documents to retain.

Third, the fact that the postcard was "not signed by someone registered to practice before the Office" (Decision, p. 1) is likewise irrelevant to whether or not the authorization was made. No USPTO rule requires that the payment authorization be signed by a registered practitioner. *See* 37 CFR 1.25; *see also* MPEP 509.01(I). Moreover, it was filed along with a signature on the Transmittal of an authorized patent attorney.

Fourth, the Decision incorrectly asserts that "listing an authorization is not in itself an authorization." Decision, p. 1. Applicant disputes this assertion, at least as applied to the present postcard and authorization thereon. The postcard did not merely "list an authorization." It included every fact, number, and requirement of an authorization (e.g., authorization, identification of the authorized dollar amount, and an identification of the deposit account from which payment is authorized), and therefore was, itself, a proper authorization, especially in view of the fact that it was accompanied by a complete application and Transmittal that was signed by an authorized patent attorney.

Fifth, the fact that the accompanying "transmittal letter section for authorizing a charge to the deposit account was not completed" (Decision, p. 1) likewise does not negate the fact that the postcard is, itself, a valid authorization.

For these reasons, as well as those laid out in the Original Petition, Applicant respectfully requests that the USPTO grant the present petition and the Original Petition to withdraw the holding of abandonment of the present application.

Applicant notes that Applicant has, in the alternative, contemporaneously filed a Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a), to the extent that and in case this petition and Original Petition are ultimately denied.

While it is believed that no fee is due for filing this Petition, the Commissioner is hereby authorized to charge any fee due with respect to this request to Counsel's Deposit Account No. 50-2613. *See* MPEP 711.03(c)(I) ("Where an applicant contends that the application is not in fact abandoned (e.g., there is a disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee").

Respectfully submitted,

DATED: JULY 3, 2008



Michael Bednarek
Registration No. 32,329

Enclosure: March 11, 2008 Petition Under 37 C.F.R. 1.181

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. WRA0020-US

Confirmation No. 2897

In re PATENT APPLICATION of :
Phillip BRADSHAW

Group Art Unit: Unassigned

Application Serial No. 10/567,110

Examiner: Unassigned

Filed: February 3, 2006

Title: METHOD AND SYSTEM FOR SYNCHRONISING STATIONS WITHIN
COMMUNICATIONS NETWORKS AND STATIONS FOR USE THEREIN

* * * * *

PETITION UNDER 37 C.F.R. 1.181(a)
TO WITHDRAW HOLDING OF ABANDONMENT

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 1.181(a), Applicant hereby petitions for the withdrawal of the February 27, 2008 holding of abandonment in the above-captioned application. According to the Notification of Abandonment, "Applicant has failed to provide the full U.S. basic National Fee by 30 months (37 CFR 1.495(b)(2))." 2/28/08 Notification of Abandonment, p. 1. To the contrary, as explained below, Applicant timely authorized payment of the U.S. basic National Fee.

The due date for filing the U.S. basic National Fee was February 4, 2006 (30 months from the August 4, 2003 priority date of Australian Patent App. No 2003904339, upon which International Application No. PCT/US2004/000875, and, in turn, the present national phase application are based).

On February 3, 2006, a day before the February 4, 2006 due date, Applicant filed the attached Return Postcard, which included a checked box affirming "Authorization to charge Deposit Account 03-3975 \$1325." As further explained in the transmittal accompanying the Return Postcard, the authorized \$1325 fee covered the "Basic national fee," as well as various other fees. *See* attached Transmittal To The U.S. Designated/Elected Office (DO/EO/US) Concerning A Submission Under 35 U.S.C. 371, p. 2. The U.S. Patent and Trademark Office does not require the authorization to be in any particular form. *See* MPEP 509.01(I). Thus, the Return Postcard, either itself, or in combination with the accompanying transmittal, constitutes an authorization to charge the U.S. basic national fee. In accordance with this Authorization, Applicant respectfully requests that the \$1325 fee be charged to Deposit Account 03-3975 to the extent that this fee has not already been so charged.

The USPTO File Stamp on the attached Return Postcard is *prima facie* evidence of the filing of this "Authorization to charge Deposit Account 03-3975 \$1325" on February 3, 2006, a full day ahead of the 30 month due date. *See* MPEP 503 ("A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO."). Consequently, Applicant timely authorized payment of the U.S. basic national fee.

Based on the foregoing, it is requested that the holding of abandonment of the above-captioned application be withdrawn. If the Commissioner should require any further information, or wish to discuss the facts or rules presented herein, please contact the undersigned at the telephone number set forth below.

While it is believed that no fee is due, the Commissioner is hereby authorized to charge any fee due with respect to this request to Deposit Account No. 50-2613. *See* MPEP

Serial No. 10/567,110
Art Unit: Unknown
Inventor: Phillip BRADSHAW

Attorney Docket: WRA0020-US
Page 3

711.03(c)(I) ("Where an applicant contends that the application is not in fact abandoned (e.g., there is a disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee").

Respectfully submitted,

 #43,475

for

Michael Bednarek
Registration No. 32,329

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, N.W.
Washington, D.C. 20005
Tel: 202/551-1847

Enclosure: Copy of 2/3/08 USPTO Stamped Return Postcard
Copy of 2/3/08 Transmittal To The U.S. Designated/Elected Office
(DO/EO/US) Concerning A Submission Under 35 U.S.C. 371

Customer No. 38183

MB/SPA/ggb

PLEASE STAMP AND RETURN TO SHOW RECEIPT OF:

54/026-0325643

New U.S. National Stage Patent Application of: PHILLIP BRADSHAW

For: METHOD AND SYSTEM FOR SYNCHRONISING STATIONS WITHIN COMMUNICATIONS NETWORKS AND STATIONS FOR USE THEREIN

ATTN: BOX PATENT APPLICATION

PA7 Rec'd PCT/PTO 03 FEB 2006

- ☐ Check in the amount of _____ or ☒ Authorization to charge Deposit Account 03-3975 \$1,325
- ☒ Transmittal Letter
- ☒ Specification of 29 pages: 16 pages description, 12 page(s) claims (for claims 1-53) and 1 Page Abstract
- ☒ Declaration and Power of Attorney (Unexecuted)
- ☒ Drawings - 2 sheets - 2 total figures
- ☐ Recordation Form Cover Sheet
- ☐ Assignment
- ☒ Preliminary Amendment
- ☒ Information Disclosure Statement
- ☒ PTO-1449, 3 reference(s)
- ☒ Other: Copy of PCT Request; Copy of International Search Report; Copy of Written Opinion

10/567110

Due Date: February 2⁴, 2006

Dated: February 2³, 2006

Attorney Docket No.: WRA0020-US

MB/ggb

26

FORM PTO-135a (Modified) U.S. PATENT AND TRADEMARK OFFICE; U.S. DEPARTMENT OF COMMERCE (REV. 12-2004)		ATTORNEY'S DOCKET NUMBER 541026-0325643 (WRA0020-US)
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371		U.S. APPLICATION NO. (If known, see 37 CFR 1.5) <div style="font-size: 1.5em; font-weight: bold;">10/567110</div>
INTERNATIONAL APPLICATION NO. PCT/AU2004/000875	INTERNATIONAL FILING DATE 30 JUNE 2004 (30.06.2004)	PRIORITY DATE CLAIMED 4 AUGUST 2003 (04.08.2003)
TITLE OF INVENTION METHOD AND SYSTEM FOR SYNCHRONIZING STATIONS WITHIN COMMUNICATIONS NETWORKS AND STATIONS FOR USE THEREIN		
APPLICANT(S) FOR DO/EO/US BRADSHAW, Phillip		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
<ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a submission under 35 U.S.C. 371. 2. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a submission under 35 U.S.C. 371. 3. <input checked="" type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (24) indicated below. 4. <input checked="" type="checkbox"/> The US has been elected (Article 31). 5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371 (c)(2)) <ol style="list-style-type: none"> a. <input checked="" type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> has been communicated by the International Bureau. c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US). 6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto. b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4). 7. <input checked="" type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3)) <ol style="list-style-type: none"> a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> have been communicated by the International Bureau. c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. d. <input checked="" type="checkbox"/> have not been made and will not be made. 8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). 9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)). 10. <input type="checkbox"/> An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)). 11. <input type="checkbox"/> A copy of the International Preliminary Examination Report (PCT/IPEA/409). 12. <input checked="" type="checkbox"/> A copy of the International Search Report (PCT/ISA/210). <p>Items 13 to 23 below concern document(s) or information included:</p> <ol style="list-style-type: none"> 13. <input checked="" type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 14. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 15. <input checked="" type="checkbox"/> A FIRST preliminary amendment. 16. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment. 17. <input type="checkbox"/> A substitute specification. 18. <input type="checkbox"/> A power of attorney and/or change of address letter. 19. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 - 1.825. 20. <input type="checkbox"/> A second copy of the published International Application under 35 U.S.C. 154(d)(4). 21. <input type="checkbox"/> A second copy of the English language translation of the International Application under 35 U.S.C. 154(d)(4). 22. <input type="checkbox"/> Express Mail Label No. 23. <input checked="" type="checkbox"/> Other items or information: <div style="margin-left: 20px;">Acknowledgment Postcard; Copy of PCT Request; Copy of Written Opinion</div> 		

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)		INTERNATIONAL APPLICATION NO.		ATTORNEY'S DOCKET NUMBER	
10/567110		PCT/AU2004/000875		541026-0325643	
24. The following fees are submitted:				Applicant use	Office use
<input checked="" type="checkbox"/> a) Basic national fee \$300.00				\$ \$300.00	
<input checked="" type="checkbox"/> b) Examination fee \$200.00				\$ \$200.00	
<input checked="" type="checkbox"/> c) Search fee \$500.00				\$ \$500.00	
TOTAL OF ABOVE CALCULATIONS = \$1000.00				\$ \$1,000.00	
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole)	RATE		
- 100 =	/50 =		x \$250.00	\$ \$0.00	
Surcharge of \$130.00 for furnishing the oath or declaration later than months from the earliest claimed priority date (37 CFR 1.492(e)).				\$	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	53 - 20 =	33	x \$50.00	\$ \$1,650.00	
Independent claims	2 - 3 =	0	x \$200.00	\$ \$0.00	
MULTIPLE DEPENDENT CLAIMS (if applicable) <input type="checkbox"/> + \$360.00				\$ \$0.00	
TOTAL OF ABOVE CALCULATIONS =				\$ \$2,650.00	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.				\$ \$1,325.00	
SUBTOTAL =				\$ \$1,325.00	
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(f)).				\$ \$0.00	
TOTAL NATIONAL FEE =				\$ \$1,325.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40 per property +				\$ \$0.00	
TOTAL FEES ENCLOSED =				\$ \$1,325.00	
Amount to be refunded:				\$	
Amount to be charged:				\$	
a. <input type="checkbox"/> A check in the amount of \$ _____ to cover the above fees is enclosed.					
b. <input type="checkbox"/> Please charge my Deposit Account No. _____ in the amount of _____ to cover the above fees. A duplicate copy of this sheet is					
c. <input type="checkbox"/> The Director is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. _____. A duplicate copy of this sheet is enclosed.					
d. <input type="checkbox"/> Fees are to be charged to a credit card. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.					
NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.					
SEND ALL CORRESPONDENCE TO:					
MICHAEL BEDNAREK					
REG. NO. 32,329					
PILLSBURY WINTHROP SHAW PITTMAN LLP					
1650 TYSONS BOULEVARD					
MCLEAN, VA 22102					
DATE: FEBRUARY 3, 2006					
				SIGNATURE	
				MICHAEL BEDNAREK	
				NAME	
				32,329	
				REGISTRATION NUMBER	

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

PHILLIP BRADSHAW

Serial No.: 10/567,110

Filed: February 3, 2006

For: METHOD AND SYSTEM FOR
SYNCHRONIZING STATIONS
WITHIN COMMUNICATIONS
NETWORKS AND STATIONS FOR
USE THEREIN

Art Unit: Unassigned

Examiner: Unassigned

**COMMUNICATION REGARDING PAYMENT OF FILING FEES AND
AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby authorizes the Office to charge the filing fees in the amount of \$1,325.00 associated with this application to Applicant's representative's Deposit Account No. 50-2613. Further, Applicant also hereby authorizes the Office to charge the petition fee for reviving a patent application unavoidably abandoned in the amount of \$255.00 as set forth in 37 CFR 1.17(l)) to Applicant's representative's Deposit Account No. 50-2613.

The Commissioner is hereby authorized to charge payment of any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-2613.

It is respectfully requested that the Petition for Revival be accepted and the application be placed upon the files for examination.

Serial No.: 10/567,110
Art Unit: Unassigned
Inventor: Phillip BRADSHAW

Attorney's Docket No.: WRA0020-US
Page 2

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, N.W.
Washington, D.C. 20005
Tel: 202/551-1700

Respectfully submitted,

PHILLIP BRADSHAW

Date: July 3, 2008

By:

A handwritten signature in black ink, appearing to be 'Michael Bednarek', written over a horizontal line.

Michael Bednarek
Registration No. 32,329

MB/ggb

Customer No. 36183

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)	Docket Number (Optional)
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>First Named Inventor: Philip BRADSHAW</p> <p>Application Number: 10/567,110</p> <p>Filed: February 3, 2006</p> <p>Title: METHOD AND SYSTEM FOR SYNCHRONISING STATIONS WITHIN COMMUNICATIONS NETWORKS AND STATIONS FOR USE THEREIN</p> <p>Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450</p> <p style="text-align: center;">NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.</p> <p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.</p> <p style="text-align: center;">APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.</p> <p>NOTE: A grantable petition requires the following items:</p> <ol style="list-style-type: none"> (1) Petition fee. (2) Reply and/or issue fee. (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and (4) Adequate showing of the cause of unavoidable delay. <p>1. Petition fee</p> <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> Small entity – fee \$ <u>255</u> (37 CFR 1.17(l)). Applicant claims small entity status. <div style="margin-left: 20px; font-size: small;">See 37 CFR 1.27. The Commissioner is hereby authorized to charge counsel's Deposit Account No. <u>50-2613</u> the fees due in accordance with this Petition.</div> </div> <div style="margin-left: 20px;"> <input type="checkbox"/> Other than small entity – fee \$ _____ (37 CFR 1.17(l)). </div> <p>2. Reply and/or fee</p> <div style="margin-left: 20px;"> <p>A The reply and/or fee to the above-noted Office action in the form of <u>Authorization to charge fees for entry into</u> (Identify the type of reply): <u>National Phase</u></p> <div style="margin-left: 20px;"> <input type="checkbox"/> has been filed previously on _____ </div> <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> is enclosed herewith. </div> <p>B The issue fee of \$ _____</p> <div style="margin-left: 20px;"> <input type="checkbox"/> has been filed previously on _____ </div> <div style="margin-left: 20px;"> <input type="checkbox"/> is enclosed herewith. </div> </div> </div> </div>	

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Michael Bednarek
Signature
Michael Bednarek
Typed or printed name

7/3/2006
Date
32,329
Registration Number, if applicable

Paul, Hastings, Janofsky & Walker LLP
Address
875 15th Street, N.W., Washington, D.C. 20005
Address

202/551-1700
Telephone Number

- Enclosure ☒ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unavoidable delay
- ☒ Authorization to pay fees

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

- ☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

Date

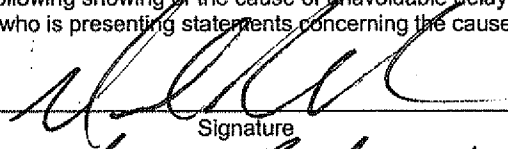
Signature

Typed or printed name of person signing certificate

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.


Signature

7/3/2006
Date

Michael Bednarek
Typed or printed name

32,329

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

See attached Statements Establishing Unavoidable Delay.

(Please attach additional sheets if additional space is needed.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
In re PATENT APPLICATION of Philip Confirmation No. 2897
BRADSHAW

Group Art Unit: Unassigned

Application Serial No. 10/567,110

Examiner: Unassigned

Filed: February 3, 2006

Title: METHOD AND SYSTEM FOR SYNCHRONIZING STATIONS WITHIN
COMMUNICATIONS NETWORKS AND STATIONS FOR USE THEREIN

* * * * *

STATEMENTS ESTABLISHING UNAVOIDABLE DELAY

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

To the extent that the above-captioned application became abandoned due to the failure to pay the full U.S. Basic National Fee by 30 months, as stated in the February 27, 2008 Notification of Abandonment,¹ the entire delay between the due date for paying such fees and Applicant's present payment of those fees was unavoidable under 35 U.S.C. § 371(d) and 37 C.F.R. 1.137(a).

I. Relevant Facts

The due date for filing the above-captioned national phase application, including the national filing fees, was February 4, 2006 (30 months from the August 4, 2003 priority date of Australian Patent App. No. 2003904339, upon which International Application No.

¹ Applicants have asserted and continue to assert that Applicants did timely pay the full U.S. Basic National Fee, such that this application was never abandoned. *See* Applicant's 3/11/08 Petition Under 37 C.F.R. 1.181(a) To Withdraw Holding of Abandonment; *see also*

PCT/US2004/000875, and in turn, the present national phase application are based). *See* 35 U.S.C. § 371. Applicant's attorney timely filed the above-captioned application a day early on February 3, 2006, but mistakenly did not mark a payment authorization check box along with associated deposit account information in the accompanying transmittal (**Ex. A**) ("Transmittal"). At the time of filing, Applicant's attorney intended and believed that the Transmittal fully and properly authorized the payment of all national phase fees due. *See* Bednarek Decl. (**Ex. C**), ¶¶ 4-5. The application's return postcard (**Ex. B**) confirms this belief and intent by stating that the February 3, 2006 Application included an "Authorization to charge Deposit Account 03-3975 \$1395," i.e., the full national filing fees due. *See* Bednarek Decl. (**Ex. C**), ¶ 5.

Moreover, Applicant reasonably relied on Pillsbury Winthrop Shaw Pittman LLP's ("Pillsbury") standard procedure of having its Docketing Department double-check all national phase filings to ensure that the required filing fees are paid. Unfortunately, in this case, the docketing clerk who reviewed the Transmittal did not adhere to the standard practice, failed to notice that the authorization to pay the required fees shown on the postcard included with the filing was not also included on the Transmittal, and, consequently, failed to disclose this omission to the responsible attorney, who would have corrected the error. *See* Bednarek Decl. (**Ex. C**), ¶ 6; Stewart Decl. (**Ex. D**), ¶¶ 5-7.

In reliance on the aforesaid standard procedures and the U.S.P.T.O.'s return of the postcard reflecting and confirming the receipt of authorization to pay the fees, the Applicant reasonably believed that the national filing fees had been timely paid and had no notice to the contrary until receiving the February 27, 2008 Notification of Abandonment. *See* Bednarek Decl.

Applicant's contemporaneous petition for reconsideration of the U.S.P.T.O.'s denial of the 3/11/08 Petition.

(Ex. C), ¶ 7. Applicant then promptly filed, on March 11, 2008, a petition to withdraw the holding of abandonment based on the belief that the fees had properly and timely been paid and the application had not, in fact, been abandoned. *See* Bednarek Decl. (Ex. C), ¶ 8. Since the U.S.P.T.O. denied this petition on May 20, 2008, Applicant has diligently sought to promptly respond via the attached petition, as well as a petition for reconsideration of the U.S.P.T.O.'s denial of Applicant's petition to withdraw the holding of abandonment. *See* Bednarek Decl. (Ex. C), ¶ 9.

II. The Entire Delay In Paying The Required Fees Was Unavoidable

As explained below, the entire delay from the original due date for paying the national filing fees to the present payment of those fees was unavoidable, including both the original failure to timely pay the fees and the subsequent delay.

A. The Original Failure To Timely Pay The Required Fees Was Unavoidable

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function establishes "unavoidable" delay, provided it is shown that: (1) there was in place a highly reliable business routine (e.g., a docketing system) for performing the clerical function that could reasonably be relied upon to avoid errors in its performance, and (2) the error in this business routine (e.g., docketing system) was the cause of the delay at issue. *See In re Egbers*, 6 USPQ2d 1869, 1872 (Comm'r Pat. 1988), *rev'd on other grounds sub nom.* ("As for the alleged docketing errors, in order to be entitled to relief under 35 U.S.C. §§ 305 and 133 on this ground, petitioner must show (1) that its counsel was justified in relying on the docketing system, i.e., that the docketing system was highly reliable, and (2) that the docketing errors were the cause of the belated response."); *Theodor Groz & Sohn & Ernst Bechert Nadelfabrik KG v. Quigg*, 10 USPQ2d 1787 (D.D.C. 1988); *In re Katrapat*, 6 USPQ2d 1863, 1867-68 (Comm'r

Pat. 1988). The present facts satisfy both requirements for establishing that the failure to timely pay the national filing fees was unavoidable.

1. Pillsbury Has A Highly Reliable Docketing System For Ensuring That The National Filing Fees Are Timely Paid.

First, there was in place a highly reliable business routine (i.e., a Pillsbury Docketing Department Standard Operating Procedure) for performing the clerical function (i.e., ensuring payment of the U.S. national filing fees) that could reasonably be relied upon to avoid errors in its performance. *See* Stewart Decl. (Ex. D), ¶¶ 5-8; *see also* Bednarek Decl. (Ex. C), ¶ 6. At the relevant time, Pillsbury's Docketing Department reviewed all U.S.P.T.O. national phase filings before their actual filing at the U.S.P.T.O. *See* Stewart Decl. (Ex. D), ¶ 5. This review required a docketing clerk to follow a "Docketing Department Double Check Summary" (attached hereto as Ex. 1 to Ex. D), which included the obligation to ensure that the application included a "Deposit Account Authorization" for the required national filing fees. *See* Stewart Decl. (Ex. D), ¶ 5. The docketing clerks were obliged to inform the responsible attorney if any part of an application being reviewed failed to comply with the Docketing Department Double Check Summary, including the failure to authorize payment of the U.S. basic national filing fees. *See* Stewart Decl. (Ex. D), ¶ 5.

Docketing clerks, including the clerk responsible for the pre-filing review of the present application, received formal training and on-the-job training with respect to these practices and procedures. *See* Stewart Decl. (Ex. D), ¶ 5. This training included explicit training to ensure, as part of the pre-filing review of a national phase application, that the transmittal includes an authorization to pay the U.S. basic national filing fees, the deposit account number, and the responsible attorney's/agent's signature. *See* Stewart Decl. (Ex. D), ¶ 5. This training also included an experienced docketing supervisor walking through the Docketing Department

Double Check Summary along with the docketing clerk to train the clerk to use the Docketing Department Double Check Summary (**Ex. 1 to Ex. D**). *See* Stewart Decl. (**Ex. D**), ¶ 5.

Unfortunately, in this case, a rare clerical error by a reliable docketing clerk in an extremely reliable Docketing Department resulted in a deposit account authorization section of the timely Application Transmittal being mistakenly left blank. The docketing clerk failed to adhere to routine office docketing procedures that require verification of deposit account authorization for payment of the U.S. basic National Fee, and notification of the responsible attorney if any errors/omissions are discovered. *See* Stewart Decl. (**Ex. D**), ¶¶ 5-7; Bednarek Decl. (**Ex. C**), ¶ 6.

The docketing clerk responsible for ensuring that the above-captioned application was filed with the required fees was well trained and reliable. *See* Stewart Decl. (**Ex. D**), ¶¶ 5-7. Indeed, the pre-filing review of this application was the only time that this docketing clerk had ever made this mistake. *See* Stewart Decl. (**Ex. D**), ¶ 8.

Moreover, docketing mistakes of this nature are extremely rare, given the Pillsbury Docketing Department pre-filing procedures in place. Indeed, since January 1996, Pillsbury's Docketing Department has conducted pre-filing reviews of and filed approximately 4400 national phase applications. *See* Stewart Decl. (**Ex. D**), ¶ 8. Over this period, this is the only instance in which the Docketing Department's pre-filing review of a national phase application failed to catch and disclose to the responsible attorney or agent a missed filing fee payment or payment authorization in a national phase application. *See* Stewart Decl. (**Ex. D**), ¶ 8. Consequently, the Docketing Department's (and the relevant docketing clerk's) pre-filing review of applications has demonstrated high reliability in the past, as there have been no errors of this type, except for the current one, over the last 12 ½ years. *See* Stewart Decl. (**Ex. D**), ¶ 8.

Given this reliability, the responsible attorney had no reason to employ additional safeguards to ensure that all of the Docketing Department's pre-filing procedures were adhered to. *See* Bednarek Decl. (Ex. C), ¶ 6. Therefore, Applicant and the responsible attorney reasonably relied on the high reliability of both the relevant docketing clerk and the Docketing Department to ensure proper and timely filing of this patent application and its U.S. national filing fees. *See* Bednarek Decl. (Ex. C), ¶ 6.

2. The error was the cause of the delay.

Finally, the docketing clerk's failure to catch the omitted deposit account authorization was the reason that the fees were not timely paid and the application became abandoned. If Pillsbury's Docketing Department had caught the mistaken lack of authorization to pay fees and informed the responsible attorney of the error, as the docketing clerk was obliged to do, the responsible attorney would have modified the Transmittal to include the appropriate authorization in time to timely file the application along with the required fees. *See* Bednarek Decl., ¶ 6.

3. Conclusion

The above facts demonstrate that the original failure to timely pay the required U.S. national filing fees constituted an unavoidable delay.

B. The Entire Time Between The Original Abandonment And The Present Payment Of The Required Fees Was Unavoidable

In view of the above facts, Applicant believed, and had every reason to believe and in fact did believe, that the required U.S. national filing fees were timely paid and that the application was properly pending. *See* Bednarek Decl., ¶ 7. In particular, the U.S.P.T.O.'s confirmation via the return postcard (Ex. B) that the application was filed with an "Authorization to charge

Deposit Account 03-3975 \$1395,” i.e., the full fees due, further demonstrated that Applicant had no reason to doubt that the required fees had been timely paid. *See* Bednarek Decl., ¶ 5.

Applicant only become aware that the U.S.P.T.O. considered the application to be abandoned upon receipt of the February 27, 2008 Notification of Abandonment. *See* Bednarek Decl., ¶ 7. Applicant then researched the facts and promptly filed, on March 11, 2008, a Petition Under 37 C.F.R. 1.181(a) to Withdraw Holding of Abandonment, based on Applicant’s belief that Applicant had, in fact, properly and timely authorized payment of the required U.S. national filing fees. *See* Bednarek Decl., ¶ 8. Indeed, Applicant incorporates Applicant’s March 11, 2008 Petition Under 37 C.F.R. 1.181(a) to Withdraw Holding of Abandonment herein in its entirety, as well as the contemporaneously filed petition to reconsider the USPTO’s denial of that original petition.

The U.S.P.T.O. denied Applicant’s petition, however, stating that the authorization on the postcard receipt was not part of the application and therefore could not be considered by the Office. 5/16/08 Decision on Petition under 37 C.F.R. 1.181. Applicant has since diligently sought to promptly prepare and file the attached petition, as well as a petition for reconsideration of its denial of Applicant’s petition to withdraw the holding of abandonment. The attached petition is being filed well within the two month time period for reply to the May 16, 2008 Decision on Petition under 37 C.F.R. 1.181. *See* 5/16/08 Decision, p. 2.

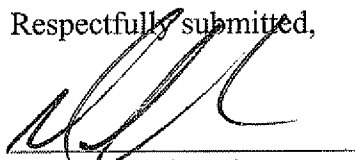
These facts demonstrate that the entire time between the initial unavoidable abandonment of this application and the present payment of the required U.S. national filing fees was unavoidable.

C. Conclusion

The above facts demonstrate that the entire delay in paying the national filing fees was unavoidable, including both the original failure to timely pay the fees and the subsequent delay through to the present.

DATED: JULY 3, 2008

Respectfully submitted,



Michael Bednarek
Registration No. 32,329

Enclosures: **Ex. A:** 2/3/08 Transmittal To The U.S. Designated/Elected Office (DO/EO/US)
Concerning A Submission Under 35 U.S.C. 371
Ex. B: 2/3/08 U.S.P.T.O. Stamped Return Postcard
Ex. C: Bednarek Declaration
Ex. D: Stewart Declaration

**Exhibit A to Statements Establishing Unavoidable Delay:
2/3/08 Transmittal To The U.S. Designated/Elected Office
(DO/EO/US) Concerning A Submission Under 35 U.S.C. 371**

1497 Rec'd PCT/PTO 03 FEB 2006

FORM PTO-139a (Modified) U.S. PATENT AND TRADEMARK OFFICE; U.S. DEPARTMENT OF COMMERCE (REV. 12-2004)		ATTORNEY'S DOCKET NUMBER 541026-0325643 (WRA0020-US)
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US) CONCERNING A SUBMISSION UNDER 35 U.S.C. 371		U.S. APPLICATION NO. (If known, see 37 CFR 1.5) 10/567110
INTERNATIONAL APPLICATION NO. PCT/AU2004/000875	INTERNATIONAL FILING DATE 30 JUNE 2004 (30.06.2004)	PRIORITY DATE CLAIMED 4 AUGUST 2003 (04.08.2003)
TITLE OF INVENTION METHOD AND SYSTEM FOR SYNCHRONIZING STATIONS WITHIN COMMUNICATIONS NETWORKS AND STATIONS FOR USE THEREIN		
APPLICANT(S) FOR DO/EO/US BRADSHAW, Phillip		
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:		
<ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> This is a FIRST submission of items concerning a submission under 35 U.S.C. 371. 2. <input type="checkbox"/> This is a SECOND or SUBSEQUENT submission of items concerning a submission under 35 U.S.C. 371. 3. <input checked="" type="checkbox"/> This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (24) indicated below. 4. <input checked="" type="checkbox"/> The US has been elected (Article 31). 5. <input checked="" type="checkbox"/> A copy of the International Application as filed (35 U.S.C. 371 (c)(2)) <ol style="list-style-type: none"> a. <input checked="" type="checkbox"/> is attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> has been communicated by the International Bureau. c. <input type="checkbox"/> is not required, as the application was filed in the United States Receiving Office (RO/US). 6. <input type="checkbox"/> An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)). <ol style="list-style-type: none"> a. <input type="checkbox"/> is attached hereto. b. <input type="checkbox"/> has been previously submitted under 35 U.S.C. 154(d)(4). 7. <input checked="" type="checkbox"/> Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371 (c)(3)) <ol style="list-style-type: none"> a. <input type="checkbox"/> are attached hereto (required only if not communicated by the International Bureau). b. <input type="checkbox"/> have been communicated by the International Bureau. c. <input type="checkbox"/> have not been made; however, the time limit for making such amendments has NOT expired. d. <input checked="" type="checkbox"/> have not been made and will not be made. 8. <input type="checkbox"/> An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)). 9. <input checked="" type="checkbox"/> An oath or declaration of the inventor(s) (35 U.S.C. 371 (c)(4)). 10. <input type="checkbox"/> An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371 (c)(5)). 11. <input type="checkbox"/> A copy of the International Preliminary Examination Report (PCT/IPEA/409). 12. <input checked="" type="checkbox"/> A copy of the International Search Report (PCT/ISA/210). <p>Items 13 to 23 below concern document(s) or information included:</p> <ol style="list-style-type: none"> 13. <input checked="" type="checkbox"/> An Information Disclosure Statement under 37 CFR 1.97 and 1.98. 14. <input type="checkbox"/> An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included. 15. <input checked="" type="checkbox"/> A FIRST preliminary amendment. 16. <input type="checkbox"/> A SECOND or SUBSEQUENT preliminary amendment. 17. <input type="checkbox"/> A substitute specification. 18. <input type="checkbox"/> A power of attorney and/or change of address letter. 19. <input type="checkbox"/> A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 37 CFR 1.821 - 1.825. 20. <input type="checkbox"/> A second copy of the published International Application under 35 U.S.C. 154(d)(4). 21. <input type="checkbox"/> A second copy of the English language translation of the International Application under 35 U.S.C. 154(d)(4). 22. <input type="checkbox"/> Express Mail Label No. 23. <input checked="" type="checkbox"/> Other items or information: Acknowledgment Postcard; Copy of PCT Request; Copy of Written Opinion 		

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

U.S. APPLICATION NO. (if known, see 37 CFR 1.5)		INTERNATIONAL APPLICATION NO.		ATTORNEY'S DOCKET NUMBER	
10/567110		PCT/AU2004/000875		541026-0325643	
24. The following fees are submitted:				Applicant use	Office use
<input checked="" type="checkbox"/> a) Basic national fee \$300.00				\$ 300.00	
<input checked="" type="checkbox"/> b) Examination fee \$200.00				\$ 200.00	
<input checked="" type="checkbox"/> c) Search fee \$500.00				\$ 500.00	
TOTAL OF ABOVE CALCULATIONS = \$1000.00				\$ 1,000.00	
<input type="checkbox"/> Additional fee for specification and drawings filed in paper over 100 sheets (excluding sequence listing or computer program listing filed in an electronic medium). The fee is \$250 for each additional 50 sheets of paper or fraction thereof.					
Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof (round up to a whole)		RATE	
- 100 =	/50 =			x \$250.00	\$ 0.00
Surcharge of \$130.00 for furnishing the oath or declaration later than months from the earliest claimed priority date (37 CFR 1.492(e)).				\$	
CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE		
Total claims	53 - 20 =	33	x \$50.00	\$ 1,650.00	
Independent claims	2 - 3 =	0	x \$200.00	\$ 0.00	
MULTIPLE DEPENDENT CLAIMS (if applicable) <input type="checkbox"/> + \$360.00				\$ 0.00	
TOTAL OF ABOVE CALCULATIONS =				\$ 2,650.00	
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.				\$ 1,325.00	
SUBTOTAL =				\$ 1,325.00	
Processing fee of \$130.00 for furnishing the English translation later than 30 months from the earliest claimed priority date (37 CFR 1.492(f)).				\$ 0.00	
TOTAL NATIONAL FEE =				\$ 1,325.00	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40 per property +				\$ 0.00	
TOTAL FEES ENCLOSED =				\$ 1,325.00	
Amount to be refunded:				\$	
Amount to be charged:				\$	
a. <input type="checkbox"/> A check in the amount of \$ _____ to cover the above fees is enclosed.					
b. <input type="checkbox"/> Please charge my Deposit Account No. _____ in the amount of _____ to cover the above fees. A duplicate copy of this sheet is					
c. <input type="checkbox"/> The Director is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. _____. A duplicate copy of this sheet is enclosed.					
d. <input type="checkbox"/> Fees are to be charged to a credit card. WARNING: information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.					
NOTE: Where an appropriate time limit under 37 CFR 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the International Application to pending status.					
SEND ALL CORRESPONDENCE TO:					
MICHAEL BEDNAREK					
REG. NO. 32,329					
PILLSBURY WINTHROP SHAW PITTMAN LLP					
1650 TYSONS BOULEVARD					
MCLEAN, VA 22102					
DATE: FEBRUARY 3, 2006					
				SIGNATURE	
				MICHAEL BEDNAREK	
				NAME	
				32,329	
				REGISTRATION NUMBER	

**Exhibit B to Statements Establishing Unavoidable Delay:
2/3/08 U.S.P.T.O. Stamped Return Postcard**

541026-0325643

For: METHOD AND SYSTEM FOR SYNCHRONISING STATIONS WITHIN COMMUNICATIONS NETWORKS AND STATIONS FOR USE THEREIN

ON **REC'D** **PCNPTO** **03 FEB 2006**

- 10/567110

Attorney Docket No.: WRA0020-US

24

**Exhibit C to Statements Establishing Unavoidable Delay:
Bednarek Declaration**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
In re PATENT APPLICATION of Philip Confirmation No. 2897
BRADSHAW

Group Art Unit: Unassigned

Application Serial No. 10/567,110

Examiner: Unassigned

Filed: February 3, 2006

Title: METHOD AND SYSTEM FOR SYNCHRONIZING STATIONS WITHIN
COMMUNICATIONS NETWORKS AND STATIONS FOR USE THEREIN

* * * * *

DECLARATION OF MICHAEL BEDNAREK

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Michael Bednarek, declare that:

1. I am a citizen of the United States of America.
2. I reside at 6311 Berkshire Drive, Bethesda, MD 20814.
3. In February 2006, I was a partner at the law firm of Pillsbury Winthrop Shaw Pittman LLP (referred to hereinafter as "Pillsbury"), with an office at 1650 Tysons Boulevard, McLean, VA 22102-4856.
4. I signed a Transmittal filed with the present application on February 3, 2006. Exhibit A to the attached Statement Establishing Unavoidable Delay is a fair and accurate photocopy of that Transmittal.
5. I intended and believed that the Transmittal fully and properly authorized the payment of all national phase fees due. This belief is confirmed by the return postcard, which states that the February 3, 2006 Application included an "Authorization to charge Deposit Account

03-3975 \$1395,” i.e., the full fees due. Exhibit B to the attached Statement Establishing Unavoidable Delay is a fair and accurate photocopy of that postcard.

6. At that time, I reasonably relied on Pillsbury’s Docketing Department’s pre-filing review of the above-captioned application to ensure that all requirements were met, including the payment of the required national filing fees. If Pillsbury’s Docketing Department had informed me of the erroneous lack of authorization to pay the required fees, I would have modified the Transmittal to include the appropriate authorization in time to timely file the application along with the required fees.
7. I believed that the above-captioned application had been duly filed and national filing fees timely paid until I received the February 27, 2008 Notification of Abandonment.
8. Upon discovery of the U.S.P.T.O.’s assertion that the application had become abandoned, I researched the facts and promptly filed, on March 11, 2008, a Petition Under 37 C.F.R. 1.181(a) to Withdraw Holding of Abandonment, based on my belief that the Applicant had properly and timely authorized payment of the required U.S. national filing fees.
9. Since the U.S.P.T.O. denied this petition on May 20, 2008, Applicant has diligently sought to promptly prepare and file the attached petition, as well as a petition for reconsideration of the U.S.P.T.O.’s denial of Applicant’s petition to withdraw the holding of abandonment.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements are so made punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

7/3/08
Date


Michael Bednarek

**Exhibit D to Statements Establishing Unavoidable Delay:
Stewart Declaration**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of Philip Confirmation No. 2897

BRADSHAW

Group Art Unit: Unassigned

Application Serial No. 10/567,110

Examiner: Unassigned

Filed: February 3, 2006

Title: METHOD AND SYSTEM FOR SYNCHRONIZING STATIONS WITHIN
COMMUNICATIONS NETWORKS AND STATIONS FOR USE THEREIN

* * * * *

DECLARATION OF LENTEE M. STEWART

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I, Lentee M. Stewart, declare that:

1. I am a citizen of the United States of America.
2. I reside at 1556 Onxy Drive, McLean, VA 22102, VA,
3. I am employed at the law firm of Pillsbury Winthrop Shaw Pittman LLP ("Pillsbury"), with an office at 1650 Tysons Boulevard, McLean, VA 22102-4856.
4. I have been employed by Pillsbury or one of its predecessor law firms since January 1990. From December of 1995 to February of 2006, I was a docketing specialist in Pillsbury's Docketing Department. Since February of 2006, I have been a Docketing Coordinator in Pillsbury's Docketing Department.
5. I am personally familiar with Pillsbury's docketing systems and policies as they existed in February 2006. Throughout February 2006, Pillsbury's Docketing Department were obliged to and did review all U.S.P.T.O. national phase filings before their actual filing at

the U.S.P.T.O. As part of such review, docketing clerks were required to follow the Docketing Department Double Check Summary attached hereto as **Exhibit 1**, which included the obligation to ensure that the application included a "Deposit Account Authorization" for the required national filing fees. The docketing clerks were obliged to inform the responsible attorney or agent if any part of an application being reviewed failed to comply with the Docketing Department Double Check Summary. Docketing clerks received formal and on-the-job training with respect to these practices and procedures. This training included the explicit training to ensure, as part of the pre-filing review of a national phase application, that the transmittal includes an authorization to pay the U.S. basic national phase filing fees, the deposit account number, and the responsible attorney's/agent's signature. This training also included having a docketing supervisor walk through the Docketing Department Double Check Summary with the docketing clerk to train the clerk to use the Docketing Department Double Check Summary (**Ex. 1**).

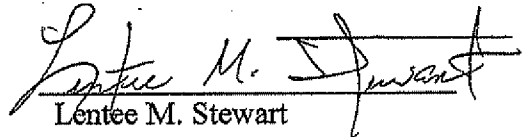
6. **Exhibit 2** hereto is an accurate copy of excerpts of a Pillsbury Docketing Department Log Book ("Log Book") for the date range January 11, 2006 to February 16, 2006. The errant "2005" dates in the Log Book result from use in 2006 of a Log Book made in 2005. The second entry on the second page of the Log Book (client/matter no. 541026-0325643) corresponds to the above-captioned application (U.S. Serial No. 10/567,110). This log entry confirms that docketing clerk Molly Barr (via her initials "m..b" in the Log Book) conducted the pre-filing docketing review of the present application. Consequently, Ms. Barr was responsible for ensuring that the February 3, 2006 filing of the above-captioned application (U.S. Serial No. 10/567,110) conformed with each requirement identified in the Docketing Department Double Check Summary (**Exhibit 1**), including ensuring that the national phase application included a "Deposition Account Authorization" for the required national phase filing fees.
7. Ms. Barr was a reliable and well-trained docketing clerk when she conducted the pre-filing docketing review of the above-captioned application. Ms. Barr is no longer employed by Pillsbury.
8. Since January of 1996, aside from the present application, I am not aware of any other instance in which the Docketing Department's pre-filing review of a national phase

application failed to catch and disclose to the responsible attorney or agent an omitted filing fee payment or payment authorization. On information and belief, in my role within the Docketing Department, I believe that since January 1996, I would have been made aware of such an error had it ever been made. Since January 1996, Pillsbury's Docketing Department has conducted pre-filing reviews of and filed approximately 4400 national phase applications.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements are so made punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

07/03/08

Date


Lentee M. Stewart

**Exhibit 1 to Stewart Declaration:
Pillsbury Docketing Department Double Check Summary**

DOCKETING DEPARTMENT DOUBLE CHECK SUMMARY

New Cases – Patent/Design

Docketing will review the following when applications are filed:

1. Sequential numbering of pages;
2. Verify that the specification includes at least a minimum one claim;
3. If applicable, review the Brief Description of the Drawings and make sure the figure numbers actually match the numbers on the drawings;
4. Two postcards are attached. Review to ensure that every document being filed should be listed, as the postcard will be our only receipt acknowledgement from the USPTO;
5. Verify customer number, if applicable;
6. Satisfy dates and verify future dates;
7. Look for attachments, if appropriate; and
8. Deposit Account Authorization.

New Cases – Trademark/Service Mark

The NoVa trademark group electronically files all new trademark applications electronically. If you have any questions or need assistance please contact a member of the trademark group within the NoVa office.

All Other Documents (including Patent/Design/Trademark/Service Mark)

Docketing will review the following when documents are filed at the USPTO:

U.S. App. Serial No. 10/567,110

**Exhibit 2 to Stewart Declaration:
Excerpt Of Pillsbury Docketing Department Log Book 1/11/06-2/16/06**

LOG BOOK # .

The attached LOG BOOK contains 100 pages.

This LOG BOOK was initiated on 1/11/00 to 2/16/00.

The last entry is dated: 2/16/00.

Pillsbury Winthrop Shaw Pittman LLP -- LOG BOOK of Filings with the U.S. Patent and Trademark Office

Date	Time	Client	Matter	Serial No.	Description of Documents to be Filed	Initials (Depositor)	Initials (Docketing)	COPY OF Transmitted	Method of Transfer to PTO (Check One)*
2/3/2005	4:28	8312	32564	NEW	new app	FebB	ML		<input checked="" type="checkbox"/> Docketing <input type="checkbox"/> Electronically <input type="checkbox"/> Mailed <input type="checkbox"/> Faxed <input type="checkbox"/> In Person <input type="checkbox"/> Other
2/3/2005	4:32	841026	32564	US-MATL PRACTICE AND 10/16/99/623	APP- TRANS DOV-29 PAGES SPEC-12 PAGES DEC-1 CLASS-53/19: TRANS-2 SACS DRAS- DECN PDM; IDS- PTO 11/19/99 + 3 M-1-1001 NINA PCT RES. LDS- PTO 1/14/99; 1 Nov- TRANS- 46 TWP- PAT- PDA; N TRANS- + + CLASS.	CCGA	CCGA		<input type="checkbox"/> Docketing <input type="checkbox"/> Electronically <input type="checkbox"/> Mailed <input type="checkbox"/> Faxed <input type="checkbox"/> In Person <input type="checkbox"/> Other
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2/3/2005	4:55	9554	300760	10/445245	Notien of Appeal	Matty			<input checked="" type="checkbox"/> Docketing <input type="checkbox"/> Electronically <input type="checkbox"/> Mailed <input type="checkbox"/> Faxed <input type="checkbox"/> In Person <input type="checkbox"/> Other
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